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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,764	07/15/2003	Nell Bennett	017026-0304511	5991
909	7590	06/15/2004		
PILLSBURY WINTHROP, LLP P.O. BOX 10500 MCLEAN, VA 22102			EXAMINER CHAMBERS, MICHAEL S	
			ART UNIT 3711	PAPER NUMBER
DATE MAILED: 06/15/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/618,764	BENNETT, NELL	
	<b>Examiner</b>	<b>Art Unit</b>	
	Michael Chambers	3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Dawson. Dawson discloses a strike zone trainer, comprising  
a bottom horizontal member (12),  
a left vertical upright (13) connected at a left side of the bottom horizontal member; a right vertical upright (14) connected at a right side of the bottom horizontal member (12); a top horizontal member (17) connecting top portions of the left and right vertical uprights together, wherein the bottom horizontal member, the left vertical upright, the right vertical upright, and the top horizontal member define a frame surrounding a strike zone for a batter;

a left indicator (22) indicating a left edge of the strike zone; a right indicator (23) indicating a right edge of the strike zone, wherein the left and right indicators define the strike zone's width; a top indicator (25) indicating a top edge of the strike zone; and a bottom indicator (24) indicating the bottom edge of the strike zone, wherein the top and bottom indicators define the strike zone's height. (fig 1).

As to claim 2 : Dawson discloses movable indicators (fig 4).

As to claim 3 : Dawson discloses elastic cords which are considered strings by the applicant (22-25).

As to claim 4 : Dawson discloses a plurality of eyelets (18-21). The loop portion (fig 4) is considered an eyelet.

As to claim 9 : Dawson discloses an adjustable zone (3:25-30).

Claims 1,3,5-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Yalvac. Yalvac discloses a strike zone trainer, comprising

a bottom horizontal member (7), a left vertical upright (1) connected at a left side of the bottom horizontal member; a right vertical upright (1) connected at a right side of the bottom horizontal member ; a top horizontal member ( 1) connecting top portions of the left and right vertical uprights together, wherein the bottom horizontal member, the left vertical upright, the right vertical upright, and the top horizontal member define a frame surrounding a strike zone for a batter (fig 2);

a left indicator (5) indicating a left edge of the strike zone; a right indicator (5) indicating a right edge of the strike zone, wherein the left and right indicators define the strike zone's width; a top indicator (horizontal line next to item 10e) indicating a top edge of the strike zone; and a bottom indicator (2) indicating the bottom edge of the strike zone, wherein the top and bottom indicators define the strike zone's height. (fig 2).

As to claim 3 : Yalvac discloses strings (2:57-59).

As to claims 5 and 6 : Yalvac discloses polyvinylchloride piping (22-25).

As to claim 7 : Yalvac discloses a bottom horizontal member made from wood (4:36-38).

As to claim 8 : Yalvac discloses brackets to receive right and left vertical members (fig 5).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10-12, and 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dawson in view of Paquet et al. Dawson discloses the elements of claim 10, however it fails to disclose the use of a plurality of electromagnetic emitters and receivers. Paquet et al disclose the use of a plurality of electromagnetic emitters and receivers ( 1:55-65). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the sensors of Paquet et al with the apparatus of Dawson in order to collect accurate information about the pitched ball. The use of IR sensors is well known in the art. One of ordinary skill could have selected any one of several equivalent sensors. This is a design choice and has no novelty.

As to claim 11 : Paquet et al discloses individual beams (fig 5 item 72).

As to claim 12 : Paquet et al discloses a micro-controller (38). It would have been obvious to one of ordinary skill in the art at the time of the invention to have programmed the micro-controller of Paquet et al to adjust the strike zone's size in order

to increase the satisfaction of the user by permitting the device to be customized by the user. The serial port noted in fig 4 would provide access for the user to adapt and customize the program.

As to claim 15 : Paquet et al discloses an audible speaker (fig 4 item 64). It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the speaker of Paquet et al in order to increase the satisfaction of the user by providing vocal feedback.

As to claim 16 : Paquet et al discloses a display monitor (4:1-3). It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the display of Paquet et al in order to increase the satisfaction of the user by providing visual feedback.

As to claim 17 : Paquet et al discloses a plurality of visual indicators positioned on the left, right, top and bottom members (22a,26a, fig 1 and 5 ). The Paquet device uses lights as sensors, therefore when the sensing area is used, the limitations of this claim are inherently met.

As to claim 18 : Paquet et al discloses lights (fig 5). The Paquet device uses lights as sensors, therefore when the sensing area is used, the limitations of this claim are inherently met.

As to claim 19 : Paquet et al discloses selected lights that indicate the top, bottom left and right edges of the strike zone (1:38-43, ). The Paquet device uses lights as sensors, therefore the strike zone edges would be known.

As to claim 20 : Paquet et al discloses indicators that determine the position of the ball (3:10-12).

Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dawson in view of Paquet et al and further in view of Homer et al. The cited art discloses the elements of claim 13 , however it fails to disclose the use of an input device. Homer discloses it is well known in the programming art to use a keyboard with a serial port ( paragraph 0002-lines 4-6 ). It would have been obvious to one of ordinary skill in the art at the time of the invention to have used an input device like a serial keyboard or mouse in order to easily communicate and program the device.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Chambers whose telephone number is 703-306-5516. The examiner can normally be reached on 8:30-5:00.

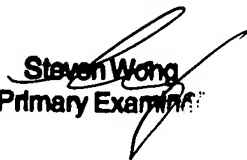
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 703-308-1513. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

3312467\*5083774\*5230505\*us202/0141149

Michael Chambers  
Examiner  
Art Unit 3711

June 4, 2004

  
**Steven Wong**  
**Primary Examiner**